

HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

MINUTES

May 23, 2013

**PRESENT:** Jay Diener, Chair  
Peter Tilton Jr., Co-Chair  
Ellen Goethel  
Barbara Renaud  
Sharon Raymond – arrived at 7:20 and left at 9:30  
Diane Shaw, Alternate  
Rayann Dionne, Conservation Commission Coordinator  
Keith Lessard, Planning Board Representative

**CALL TO ORDER:**

The meeting was called to order at 7:00 p.m. by the Chairman, Jay Diener, at the Hampton Town Office Meeting Room.

**CONSIDERATION OF MINUTES**

MOTION by Mr. Diener to discuss and review the April 23, 2013 minutes at the next meeting in June.

SECOND by Mrs. Goethel

VOTE: 5-0-0

**APPLICATIONS**

**A. 66 Park Ave**

Applicant: David and Karen Lang

Application Type: Special Permit

Mr. Lang addressed the Commission seeking a positive recommendation for the construction of a 24' x 24' two-car garage with an 8' x 16' breezeway that will connect the garage to the house. The construction will result in approximately 400 additional square feet of sealed surface in the wetlands buffer. When deciding on a location for the garage, Mr. Lang tried to move the garage as far forward (away from the stream) as possible, placing a large portion of the garage over the existing asphalt driveway. The proposed location results in a reduced impact and preserves a mature tree in the front yard. Mr. Lang proposed mitigation is to remove 700 sq ft of asphalt driveway that is located just outside of the buffer. He believes this strip of asphalt conveys stormwater from the adjacent driveway and Park Ave directly into the buffer and wetlands. The area would be replanted with grass and other suitable vegetation. Mr. Lang shared that they are very interested in gardening and planting and willing to accommodate any recommendations the Commission may have regarding specific types of plantings. Lastly, Mr. Lang stated that there will be gutters on the garage that could be connected to either rain barrels or a rain garden.

Mrs. Dionne asked about relocating the existing shed outside of the buffer. This would result in a 200 sq ft decrease in sealed surface reducing the overall increase to from 400 sq ft to 200 sq ft. Mrs. Goethel agreed that a smaller increase in the buffer is easier to off-set.

# HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

## MINUTES

May 23, 2013

Mr. Lang asked if there was any concern about the impact/disturbance that would occur in the buffer during the removal of the shed. There is currently a great deal of plantings and ground cover that surround the shed. Mr. Tilton agreed with this concern and preferred the removal of the asphalt even though it was outside of the buffer. This action would have a positive impact on the buffer by providing greater infiltration. Mr. Lang asked about replacing the brick patio at the front of the house with permeable pavers. However, only about 60 sq ft of that patio is in the buffer. Mrs. Dionne asked about replacing the driveway, a majority of which is in the buffer, with a permeable surface. Mr. Lang responded that he had considered this option but found it to be very costly and he had concerns about how it would hold up over time with our winter climate.

Mr. Diener asked about the removal of the tree in the front yard which would allow the garage to be pulled even further from the wetland. Mr. Lang said that he was willing to remove the tree, but he thought the Commission would prefer it be saved. In general, the Commission is always on board with saving mature trees. However, in this instance its removal would allow the corner of the shed which is currently very close the stream edge to move further away, providing valuable protection.

Mr. Lang did comment that this stream originates from drainage off of Wheaton Lane. There was a brief discussion on the drainage that feeds into this stream and where the stream discharges to. Regardless of where this water comes from, it has wetland characteristics that are protected under the Town's Wetland Ordinance.

Mrs. Goethel commented that her biggest concern is the close proximity of the northeast corner of the garage to the stream. She would like to see that corner as far from the stream bed as possible. Mr. Diener agreed and added that moving the garage forward would also reduce the amount of sealed surface added because it would be covering a larger portion of the asphalt driveway.

Ms. Renaud reminded the Commission that during their site walk a substantial accumulation of yard waste and chips were observed in the buffer near the screen house. Storage of yard waste in the buffer is not allowed by the Wetland Ordinance and therefore should be removed. Mr. Lang acknowledged the piles and stated that he would not add anymore.

### NO PUBLIC COMMENT

MOTION by Mr. Tilton to recommend the granting of the Special Permit at 66 Park Ave for the construction of 24'x24' garage with 8'x16' breezeway per the plan signed and dated by the Chair with the usual stipulations and the following stipulations:

1. The applicant has agreed to move the garage forward so that the front of the garage is in-line with the front of the house, and will remove/move the maple tree in front of the proposed garage, if necessary.

# HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

## MINUTES

May 23, 2013

2. The applicant has agreed to remove approximately 700 sq. ft. of sealed surface located on the western edge of the property and re-vegetate this area with grass and plantings.
3. The applicant has agreed to install either two rain gardens or a combination of a rain garden and rain barrel that will receive the stormwater runoff from the rear corners of garage roof. At least one rain garden shall be placed along the northeast edge of the garage. The downspout at the northwest corner of the garage will drain to the property owner's choice of a rain barrel or rain garden. The applicant is encourage to contact the Conservation Coordinator for information and guidelines on how to size, design, and install a rain garden.
4. The yard waste shall be removed that has accumulated near the screen house and the owner will no longer store yard waste in the 50' buffer. It is also important to remember that fertilizer application is not allowed in the 50' buffer unless it is organic.

SECOND by Mrs. Goethel

VOTE: 4-0-1, Mr. Diener abstained.

### B. Tide Mill Creek

Applicant: Unitil Energy Systems

Agent: Tom Murphy - Manager - Environmental Compliance & Business Continuity

Application Type: Special Permit

Mr. Murphy addressed two corrections to the agenda. The application is for the replacement of four poles and their storm guys and one additional guy and that the right-of-way is 100' and not 50'. Mr. Murphy shared with the Commission that there was an outage this past spring in the beach area that resulted in an inspection/patrol of the lines. There are two lines that are side-by-side (Lines 3342 and 3353) which are located parallel to one another for redundancy purposes. If one of the lines goes down than the load can be transferred to the other line without any disruption in service. During the inspection several static wires (lightning arrestor wires) were removed because they had come down and it was believed to be the cause of the outage. They also found that some of pole's crowns were deteriorating. The deterioration of the crowns has also caused their guys to no longer have the proper tension. As result of this inspection it was determined that two poles on the 3342 line must be replaced and the two poles on the 3353 line as shown on the application can be deferred for a couple more years. The reason for the deferral on Line 3353 is because Unitil has approached the State about moving those poles closer to Route 101 which could take several years to work out.

Mr. Murphy further explained that new poles on Line 3342 will be placed next to the existing poles and the guys will be replaced in the same location. The work area will be accessed from the shoulder of Route 101, with material staging by the guard rail. The access point, staging area, and easement are located on State land. The contactor will use swamp matts composed of either railroad ties bound together or fiberglass to leap frog the equipment out to work site. The mats will be anchored and stacked with a vehicle on top of them when stored overnight. Geotextile fabric and gravel will used to prevent ruts. It is Unitil's preference to use fiberglass mats because they are easier to maintain and clean. They will most likely put together a traffic plan

# HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

## MINUTES

May 23, 2013

even though one is not required by the State. It is also expected that the work will take between 3-5 days and will occur during low tides. Lastly, Mr. Murphy commented that the NH Natural Heritage Bureau is looking at this project as a pilot study to see if these maintenance activities should have a different/expedited permitting process.

Mr. Lessard asked if the poles would be chain sawed down and Mr. Murphy responded that they have a machine that will shear the pole at the ground level. The portion of the pole in the ground will be left intact.

Mrs. Goethel asked how large the fiber glass mats are. Mr. Murphy indicated that they are 15'x15' and 3-4" thick. Mrs. Goethel agreed with Unital's preference to use the fiberglass mats. Mrs. Goethel did raise some concerns about the use, more specifically the cleanup of the geotextile with gravel because it can be ripped causing the stones can migrate. She would like to make sure that the area is properly restored. Special care should be taken to make sure the spartina is replaced in those areas where the peat has become exposed. Mr. Lessard asked if there were any advantages to doubling the fabric. Doubling would not be necessary as long as proper restoration techniques are used. Mrs. Goethel requested photos documenting the area before, during, and after pole replacement.

Ms. Raymond asked if there would a silt fence installed, Mr. Murphy said there would be. Ms. Raymond commented that she would prefer to see an engineered plan instead of marked up area photo so that the widths, lengths and total areas of disturbance can be properly quantified. Mr. Murphy said that the NHDES Utility maintenance notification application did not require a more detailed plan, but that they could provide one if necessary. Mr. Diener stated that pre and post construction photos would be sufficient to verify whether the area has been properly restored.

### NO PUBLIC COMMENT

MOTION by Mrs. Goethel to recommend the Special Permit for the replacement of 2 poles and their guys and one additional guy within the utility 100' right of way in Tide Mill Creek adjacent to Route 101 per the plan signed and dated by the chair. Include the usual stipulations and the following stipulations:

1. The applicant has agreed to submit photographs documenting the condition of the work area, before, during and after the work.
2. The applicant has agreed to contact the Conservation Coordinator following project completion for a final inspection to ensure adequate restoration of the work area.
3. The Conservation Commission recommends the use of fiberglass mats instead of timber mats because they cause less damage to the underlying vegetation and peat.

SECOND by Ms. Renaud

VOTE: 5-0-1, Mr. Diener abstained.

C. 611 Ocean Blvd

Applicant: 611 Ocean Condominiums

# HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

## MINUTES

May 23, 2013

Agent: MJS Engineering – Michael Sievert

Application Type: Special Permit

Mr. Sievert stated that the Condominium Association is looking to re-pave the existing parking area. Following the site walk, it was brought to his attention that there were differences between the current existing conditions plan prepared for this project and the recorded Site Plan from 1984. The differences noted between the plans are as follows:

1. The foot print of the current paved area is larger and extends further into the salt marsh than the area designated for parking on the approved Site Plan. The filling of a salt marsh is a violation at the Town of Hampton and NHDES levels.
2. The approved Site Plan shows a detail for a 1' high retaining wall to run along the salt marsh edge of the parking lot. It does not appear that this wall was ever built.
3. The current traffic pattern and parking assignments do not match the approved Site Plan. The Commission noted that this deviation does not fall under the jurisdiction of a Special Permit and would need to be addressed with the Planning Board, most likely through an amended Site Plan.
4. The approved Site Plan does not show the pavement extending past the southern edge of the building. However, pavement has been installed on the south side of the building.

Mr. Sievert did draft a plan for the meeting which was an overlay of the original parking foot print and the current conditions. It was calculated that the parking area has been enlarged by approximately 240 sq ft. It was also acknowledged that the updated wetland delineation differs from the delineation in 1984 because of this encroachment into the marsh.

The Conservation Commission was not comfortable considering new work on the site when there is a known violation. The Commission does not support new work being approved on a site until a plan that adequately addresses the violation or restores the site to the originally approved condition has been reviewed and accepted by the Conservation Commission, the Planning Board, and NHDES.

Mrs. Dionne asked if Mr. Sievert knew how the association would want to proceed, either restoring parking lot foot print or trying to get the current foot print approved. Mr. Sievert was not certain but noted that the parking arrangement on the approved plan is not physically possible and suspected that they would like to go with the modified design.

Mr. Lessard asked if the assigned parking spots were clearly identified in the condominium documents. Mr. Sievert indicated that the documents did indicate two spots per unit.

The Conservation members discussed whether to continue this application but did not feel comfortable doing so because the current plan does not adequately resolve or mitigate the filling in of salt marsh to expand the parking area.

NO PUBLIC COMMENT

HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

MINUTES

May 23, 2013

MOTION by Mr. Tilton to not recommend the approval of the Special Permit due to illegal fill on the property. No new work should be considered until a restoration plan is submitted and approved by Conservation Commission, Planning Board, and NHDES.

SECOND by Ms. Raymond

VOTE: 5-0-1, Mr. Diener abstained

D. 59 Mooring Drive

Applicant: Karen and Andrew Smith

Application Type: Special Permit

Mrs. Smith shared with the Commission that work has already begun to replace their rear deck. A contractor was hired to repair the decking, but it was discovered that the footings were in poor condition and new ones needed to be installed. The plan is to reconstruct the deck using the same foot print with the only difference being the widening of the western stairway. This expansion is proposed over the existing asphalt driveway.

Mr. Diener asked whether there are more footings than before. Mrs. Smith was not 100% sure but thought there might be one additional footing.

NO PUBLIC COMMENT

MOTION by Mrs. Goethel to recommend the granting of the Special Permit for the Reconstruction of an existing deck using the same foot print with new sonotube footings at 59 Mooring Drive per the plan signed and signed and dated by the chair. Include the usual stipulations.

SECOND by Ms. Renaud

VOTE: 5-0-1, Mr. Diener abstained

**OLD BUSINESS**

A. Hurd Farm Signage

No update

B. Ice Pond Dam update

Mr. Diener shared that the beavers are doing a great job of maintaining the water level and in fact the water level is quite high. It is anticipated that DPW will try to reduce the water level by making some breaks in the dam but not a complete removal. DPW understands the importance of maintaining a reasonable water level.

Mr. Diener asked the Commission if they wanted to conduct site walks during the summer on a weekday night instead of on Saturdays. It was agreed to hold the site walks on the Tuesday a week before a meeting beginning at 6:30 for the months of June through August.

## HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

### MINUTES

May 23, 2013

Mr. Diener gave a brief update on the status of adding Special Permit information to the Town tax cards. Mrs. Dionne and Mr. Diener have obtained the support of the Planning Board and received feedback from the Board of Selectmen and the Town Attorney. Based on their last meeting with the Town Assessor it was proposed to add only Special Permit history to the “Notes” section of the tax card. The Town Assessor shared this addition with the Board of Selectmen and received their approval. Now it is a matter of developing a database of the previously approved Special Permits.

Mr. Diener shared that the budget for 2014 is due by the end of June. He urged the Commission to think about whether there were any new items that needed to be added and to let him know.

Mr. Diener shared an email from Commission alternate, Tony Ciolfi, asking whether the Commission would draft a letter of support for a rail trail along the old railroad corridor. Mr. Ciolfi noted that North Hampton had recently submitted a letter. The Commission was uncertain at this time since there was no formal proposal for the old railroad. Mrs. Dionne shared that during a recent Downtown Village Corridor Study, RPC representative shared that NHDOT has funding to purchase the abandoned rail road corridor from PANAM.

Mr. Diener asked whether any Commission members were available to present the Conservation Award at the Hampton Academy graduation on June 26th. Member availability was slim and Mr. Diener volunteered.

### **NEW BUSINESS**

#### **A. Conservation Volunteer**

Mrs. Dionne shared that summer resident, Karin Theodorus, would like to volunteer sometime over the summer months to help out. Mrs. Goethel shared that Mrs. Theodorus did volunteer several years ago and helped to reorganize the files by street address instead of property owner. None of the Commission members had any objections.

#### **B. Review Revision to the Conservation Commission Rules and Procedures**

No one had any additional edits but the title for financial reports position that Ms. Renaud holds was further discussed. It was decided that “Financial Administrator” was the most appropriate title. Motion by Mrs. Goethel to change to the title to “Financial Administrator”, second by Ms. Raymond. Vote – 4-0-1, Ms. Renaud abstained.

#### **C. Survey/Poll concerning climate adaptation and/or sea-level rise**

Mrs. Dionne shared that she had not had an opportunity to work on the survey and hoped to have more information at the next meeting.

### **CONSERVATION COORDINATOR AND CHAIRMAN UPDATE**

Mr. Diener shared that the North Hampton Conservation Commission is taking a more aggressive approach to violations. There was a recent article in the paper that gave the names and addresses of the violators plus a brief description of the violations. The Commission is curious to see how this plays out.

## HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

### MINUTES

May 23, 2013

Mrs. Dionne shared that the rain barrel painting project and auction was very successful this year. All eight barrels found new homes and a total of \$595 was raised. The funds will be put towards the Green Infrastructure Project, if awarded to the Town.

Ms. Renaud shared that she attended the Victory Garden's spring meeting which was held at Lago's. The committee was very pleased to have a member of the Commission there and asked the following questions.

1. A few members are entertaining the idea of raising bees and chickens but were not sure if this was allowed. The Commission had concerns about the legality, logistics, liability, and allergies.
2. The Victory garden would like to clear out the sumac and brush along the western edge of the garden which is an area that used to be used to grow corn. It would be appropriate for them to show on an aerial photo/drawing of the area where they would like clear for the Commission's review/approval and then perhaps DPW could do the removal.
3. There is low turnover and there is waiting list for plots. They would like more space but that would require more fencing which is costly. Mr. Lessard wondered how long the waiting list is which would help determine the necessity for expansion.
4. Asked what the other building on site is, not the blacksmith's shop. Mrs. Goethel remembered that the other building is a Cooperage for making barrels.
5. Ms. Renaud received copies of their tenant agreement and garden rules. Mrs. Dionne took the papers and agreed to scan them.
6. JulieAnn Baumer the current Victory garden organizer will be leaving and they will be looking for another person to lead.

Mr. Diener recommended that they put together a list of the most important things and schedule an appointment with the Commission for a discussion.

### **TREASURER'S REPORT**

No treasurer's report.

MOTION to Adjourn by Mr. Diener at 9:35

SECOND by Mrs. Goethel

VOTE: 5-0-0